

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDMOND DAWON NEVILLS,

Defendant-Appellant.

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UNPUBLISHED

March 27, 2014

No. 314480

Berrien Circuit Court

LC No. 2012-003408-FH

Before: GLEICHER, P.J., and HOEKSTRA and O'CONNELL, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial conviction for possession of marijuana, MCL 333.7403(2)(d). The trial court sentenced defendant as an habitual offender, second offense, MCL 333.7413(2), to 120 days in jail. We affirm.

Defendant's parole agent conducted a "house call" at defendant's residence in August 2012. Officers surrounded the house, conducted a search, and discovered that there were 8 to 12 individuals in the house. Detective Wes Smigielski saw defendant come out of a bedroom on the second floor wearing only jeans. A canine unit discovered marijuana in a pocket of a jacket in this second-floor bedroom. Smigielski testified that the jacket was alongside the bed and appeared large enough to fit an adult male. At some point, defendant asked Smigielski to go into that bedroom to get his black pair of shoes and a white shirt for him to wear. At the conclusion of trial, the trial court found that defendant constructively possessed the marijuana discovered in the jacket pocket.

Defendant argues that there was insufficient evidence to show that he constructively possessed the marijuana found in the second-floor bedroom. According to defendant, the prosecution failed to establish that he possessed the marijuana because there were 8 to 12 other individuals in the house with equal ability to access the bedroom.

We review de novo defendant's challenge to the sufficiency of the evidence. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). We view the evidence in the light most favorable to the prosecution; we must determine whether the trial court could have found that the prosecution proved the elements of the crime beyond a reasonable doubt. *People v Lanzo Constr Co*, 272 Mich App 470, 474; 726 NW2d 746 (2006).

“Actual or constructive possession is one of the elements which must be proven in a prosecution for possession of a controlled substance.” *People v Ridgeway*, 74 Mich App 306, 315-316; 253 NW2d 743 (1977). “Constructive possession, which may be sole or joint, is the right to exercise control over the drug coupled with knowledge of its presence.” *People v Cohen*, 294 Mich App 70, 76; 816 NW2d 474 (2011). “Constructive possession exists when the totality of the circumstances indicates a sufficient nexus between the defendant and the controlled substance.” *Id.* at 76-77 (citation omitted). Circumstantial evidence and reasonable inferences may provide satisfactory proof of possession. *People v Nunez*, 242 Mich App 610, 615; 619 NW2d 550 (2000), citing *People v Maliskey*, 77 Mich App 444, 453; 258 NW2d 512 (1977).

In this case, circumstantial evidence created a nexus between the marijuana and defendant. A police officer found the marijuana in a jacket in a second-floor bedroom. Smigielski also testified that the jacket appeared to fit an adult male. The bedroom contained one bed; there were also a television, DVDs, and male clothing. Defendant’s parole officer testified that she had visited the house three or four times before, and defendant had claimed that the bedroom was his. In addition, Smigielski testified that he saw defendant come out of the bedroom wearing only jeans and that defendant later asked him to get specific clothes out of that bedroom.

Defendant argues that the jacket could have belonged to someone else. However, “[t]he prosecution . . . need not rebut any and all theories that could prove a defendant innocent.” *People v Williams*, 268 Mich App 416, 421; 707 NW2d 624 (2005). The prosecution “need only submit evidence sufficient to convince a reasonable jury of the existence of the elements of the crime in the face of whatever contradictory evidence the defendant provides.” *Id.* Viewing the evidence in a light most favorable to the prosecution, *Jackson*, 178 Mich App at 64, a reasonable fact-finder could have found that the prosecution proved beyond a reasonable doubt that defendant had a right to exercise control over the marijuana and had knowledge of its presence. *Cohen*, 294 Mich App at 76. Therefore, the trial court did not clearly err in finding that defendant constructively possessed the marijuana.

Affirmed.

/s/ Elizabeth L. Gleicher  
/s/ Joel P. Hoekstra  
/s/ Peter D. O’Connell